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| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) 17657.26a | | | | | | | | | |
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____ | Application Number 10605950 | Filed 2003-11-09 | | | | | | | | | |
| | First Named Inventor Chih-Wen Huang | | | | | | | | | | |
| | Art Unit 2166 | Examiner Usmaan Saeed | | | | | | | | | |
| <p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding: 5px;"><input type="checkbox"/> applicant/inventor.</td><td style="width: 50%; vertical-align: top; padding: 5px;">/Michael G. Pate/ Reg. No. 53439/ _____ Signature</td></tr><tr><td style="vertical-align: top; padding: 5px;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td style="vertical-align: top; padding: 5px;">Michael G. Pate _____ Typed or printed name</td></tr><tr><td style="vertical-align: top; padding: 5px;"><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>53439</u></td><td style="vertical-align: top; padding: 5px;">801-533-9800 _____ Telephone number</td></tr><tr><td style="vertical-align: top; padding: 5px;"><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td style="vertical-align: top; padding: 5px;">2009-11-02 _____ Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> | | | | <input type="checkbox"/> applicant/inventor. | /Michael G. Pate/ Reg. No. 53439/ _____ Signature | <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) | Michael G. Pate _____ Typed or printed name | <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>53439</u> | 801-533-9800 _____ Telephone number | <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ | 2009-11-02 _____ Date |
| <input type="checkbox"/> applicant/inventor. | /Michael G. Pate/ Reg. No. 53439/ _____ Signature | | | | | | | | | | |
| <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) | Michael G. Pate _____ Typed or printed name | | | | | | | | | | |
| <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>53439</u> | 801-533-9800 _____ Telephone number | | | | | | | | | | |
| <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ | 2009-11-02 _____ Date | | | | | | | | | | |
| <input checked="" type="checkbox"/> *Total of <u>2</u> forms are submitted. | | | | | | | | | | | |

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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FILED ELECTRONICALLY

PATENT APPLICATION

Docket No: 17657.26a

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re application of | |) |
| | |) |
| | Chih-Wen Huang |) |
| | |) |
| Serial No.: | 10/605,950 |) Art Unit |
| | |) 2166 |
| Filed: | November 9, 2003 |) |
| | |) |
| Confirmation No.: | 2949 |) |
| | |) |
| For: | FILE MANAGING METHOD FOR A |) |
| | DIGITAL APPARATUS |) |
| | |) |
| | |) |
| Examiner: | Usmaan Saeed |) |

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop **APPEAL**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants submit the following succinct, concise and focused set of arguments for which the panel review is being requested:

Claims 1-2, 4-6, 45, and 47 have been rejected under 35 U.S.C. § 103 in view of *Jones* (U.S. Publication No. 2002/0118949) and *Huang* (U.S. Publication No. 2004/0098379).

Jones teaches a system for “collect[ing] content from a number of content sources” including “[a] source of still images,” “[a] source of digital video content,” and “[a]n audio source 109.” Paragraph 22. A digital processor takes “the set of inputs created from the content sources and in an interactive session with the user/author, produces all of the translated ... data necessary for creating an output suitable for recording ... on a CD.” Paragraph 24.

Huang teaches a “computer software system for storage, organizing, searching, and retrieval for digital media files.” Paragraph 16. The system includes a “Graphical User Interface (GUI) [that] allows a user to control and perform different functions on the system...,” including handling “where imported files are placed and can generate appropriate folder structure based on the attributes of the files, such as file type (audio, image, or video) and file date.” Paragraph 25.

As noted by the Examiner *Jones* does not teach “establishing a folder in a memory of a digital apparatus and responsive to a selection of an operational mode of the digital apparatus, the folder having a file type determined according to the selected operational mode,” as recited in claim 1.

Applicant respectfully asserts that *Jones* and *Huang*, whether taken alone or in combination, fail to teach, suggest, or provide an apparent reason for modification to achieve the method of claim 1. In particular, *Huang* fails to remedy the deficiency of *Jones* noted by the Examiner.

Huang teaches a system “where imported files are placed and can generate appropriate folder structure based on the attributes of the files, such as file type (audio, image, or video) and file date.” Paragraph 25. More specifically, only an examination of the attributes of already existing files is performed when generating a folder structure in *Huang*. *Huang* does not mention the occurrence of “selection of an operational mode” or any action taken based on selection of an operational mode. The Examiner has cited Figure 5 of *Huang*, which is alleged to show a file system of a digital camera. However, no portion of *Huang* indicates how the file system is created. The file system of Figure 5 is much less disclosed as being created in response to “selection of an operational mode of [a] digital apparatus.” There is therefore clearly no teaching, suggestion, or apparent reason in the cited references to perform a method including “establishing a folder in a memory of a digital apparatus and responsive to a selection of an operational mode of the digital apparatus,” as recited in claim 1.

Claims 45 and 47 are allowable for at least some of the reasons noted with respect to claim 1.

Claims 2, 4-6 are dependent on claim 1 and are therefore allowable for at least this reason.

CONCLUSION

In view of the foregoing, Applicants believe the claims are in allowable form. Applicant therefore respectfully requests that the rejections of the claims be withdrawn.

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

Dated this 2nd day of November, 2009.

Respectfully submitted,

/Michael G. Pate / Reg. No. 53439

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